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ONE HUNDRED NINTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

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May 4, 2006

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BUD ALBRIGHT, STAFF DIRECTOR

The Honorable David M. Walker  
Comptroller General  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Comptroller General Walker:

Medicaid finances health care for over 50 million low-income, aged, and disabled individuals and is jointly funded by the Federal Government and the States at an estimated total cost of about \$326 billion in fiscal year 2005. Within broad Federal guidelines, States have considerable flexibility to design and administer their Medicaid programs. Under section 1115 of the Social Security Act, the Secretary of Health and Human Services may waive certain statutory requirements in connection with experimental, pilot, or demonstration programs that are likely to promote program objectives. Over the years, States have used section 1115 waivers to expand coverage to additional low-income populations or to test new ways to deliver services.

In recent years, GAO has reported to the Congress certain legal and policy concerns pertaining to approval of some of these waivers, including excessive costs to the Federal Government. For example, GAO's July 2002 and June 2004 reports on Medicaid section 1115 waivers found that the Secretary had approved waivers without adequately ensuring the demonstration projects would be budget-neutral to the Federal Government. GAO's reports contained recommendations to the Secretary to ensure that valid methods were used to demonstrate budget neutrality and to provide for an improved – and more transparent – review and public input process. In addition, GAO has long raised concerns about financing practices in the Medicaid program that allow States to use Federal Medicaid funds for non-Medicaid purposes.

We are increasingly concerned that the Secretary continues to approve section 1115 Medicaid waivers that will prove quite costly to the Federal Government without providing any new assistance to Medicaid beneficiaries, and without allowing adequate opportunity for public review of and input to the proposals. For example:

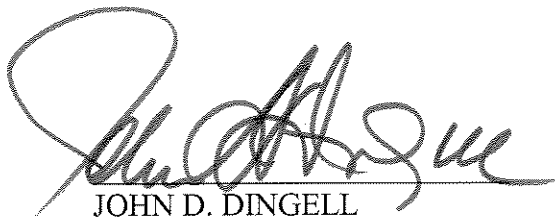
- (1) The Secretary recently approved in 16 days a waiver from Florida that, according to State documents, approved \$1 billion in annual payments to the State over the five-year life of the waiver through a "Low-Income Pool (LIP)" without clear assurances that this funding will be used to expand coverage rather than fund existing State programs, and
- (2) The Secretary also recently approved a waiver in Vermont, allowing a budget of \$4.7 billion that appears on its face to be well above the \$4.2 billion expected cost of the Medicaid program without the waiver. One private consulting firm has reported that Vermont can use the excess Federal Medicaid funds to refinance existing State programs and pay for non-Medicaid State budget expenditures, without expanding health benefits to previously uncovered individuals.

In light of GAO's earlier work, and the potential impact of the Deficit Reduction Act on the need for and approval of section 1115 waivers, we request that GAO examine the following:

- (1) What are the key components of section 1115 demonstration waivers recently approved, including Florida and Vermont, and how do they depart from statutory Medicaid requirements?
- (2) To what extent does the Secretary ensure that adequate stakeholder input is obtained prior to approving section 1115 waivers?
- (3) To what extent has the Secretary ensured that section 1115 waivers are budget-neutral to the Federal Government and that Federal Medicaid funds are not being redirected to non-Medicaid purposes?
- (4) What are the implications for beneficiaries, States, and the Federal Government of a financing arrangement such as the one adopted in Vermont?

We appreciate GAO's assistance on this important matter. If you have any questions about this request, please feel free to contact Bridgett Taylor, Amy Hall, or Purvee Kempf with the Committee on Energy and Commerce Democratic staff at (202) 226-3400, Tim Westmoreland and Karen Nelson with Rep. Waxman's office at (202) 225-3976, or Eleanor Dehoney with Rep. Brown's office at (202) 225-3401.

Sincerely,



JOHN D. DINGELL



HENRY A. WAXMAN



SHERROD BROWN

The Honorable David M. Walker  
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cc: The Honorable Joe Barton, Chairman  
Committee on Energy and Commerce

The Honorable Nathan Deal, Chairman  
Subcommittee on Health